

RULE GOVERNING ESTABLISHMENT AND OPERATION OF DRUG COURTS

1. Constitutional and Statutory Authority. This rule is promulgated under the authority of article V, § 1, of the Nebraska Constitution and Neb. Rev. Stat. § 24-1302.

2. Purpose. The purpose of this rule is to institute requirements for the establishment and operation of drug courts in Nebraska.

3. Scope. This rule shall apply to all Nebraska drug court judges and personnel regardless of funding source.

4. Definitions. For the purpose of this rule, “drug court,” “drug court program,” “drug court treatment program,” or “program” means a postplea or postadjudicatory drug and alcohol intensive supervision treatment program for eligible offenders. The purpose of the program is to reduce offender recidivism by fostering a comprehensive and coordinated court response composed of early intervention, appropriate treatment, intensive supervision, and consistent judicial oversight.

5. Requirements for Establishment.

A. In order to establish a drug court program, approval must first be granted by the Nebraska Supreme Court pursuant to the Nebraska Supreme Court Rule Regarding Problem-Solving Courts.

B. Drug courts shall adhere to the 10 Key Components as identified by the National Association of Drug Court Professionals and utilize evidence-based practices as identified by applicable social science research and literature.

C. Drug courts shall submit to the Administrative Office of the Courts, in writing for approval by the Nebraska Supreme Court, the following:

1. A general program description;
2. A description of the target population it intends to serve;
3. Program goals and how they will be measured;
4. An established eligibility criteria for participation in the drug court which includes a standardized, validated risk instrument as approved by the Administrative Office of the Courts;
5. The process or procedure by which an individual gains acceptance to participate in the drug court;
6. Drug/alcohol testing protocol;
7. A protocol for adhering to appropriate and legal confidentiality requirements and a plan to provide all team members with an orientation regarding the confidentiality requirements of 42 U.S.C. § 290dd-2 and 42 C.F.R. part 2, if applicable;
8. The terms and conditions of participation in the drug court, including, but not limited to, treatment, drug testing requirements, phase requirements, graduation/completion requirements, graduated sanctions and rewards, and any applicable program service fees;

9. The process or procedure by which a participant's progress in the drug court is monitored;
 10. Developed policies and procedures governing its general administration, including those relating to organization, personnel and finance.
- D. Any changes in the material submitted pursuant to paragraph 5C shall be submitted to the Administrative Office of the Courts in a timely manner for approval by the Nebraska Supreme Court.
 - E. Screening and treatment for substance abuse shall adhere to the Nebraska Supreme Court Rule Regarding Use of Standardized Model for Delivery of Substance Abuse Services adopted by the Nebraska Supreme Court.
 - F. The Court may from time to time modify the requirements set forth in paragraphs 5A through 5E.
 - G. The Court shall reserve the right to allow exemptions to any of the requirements set forth in paragraphs 5A through 5E. Any request for an exemption shall be made to the Court in writing. Exemptions shall also be terminated at the discretion of the Court.
6. Operational Requirements.
- A. All drug courts shall be postplea or postadjudication in nature.
 - B. Following the effective date of these rules, all new drug courts, with the exception of family dependency drug courts, shall utilize probation personnel.
 - C. Before receiving any funding from the Administrative Office of the Courts, drug courts shall have an interlocal agreement or other contract in place. Drug courts directly utilizing probation personnel shall have an interlocal agreement with the Office of Probation Administration outlining the roles, responsibilities, obligations, and the collection of probation fees. Drug courts that are not directly utilizing probation personnel shall have an interlocal agreement or other contract with the Administrative Office of the Courts outlining the roles, responsibilities, and obligations of each.
 - D. Drug courts applying for access to treatment funds managed by the Office of Probation Administration shall enter into an interlocal agreement with the Office of Probation Administration outlining roles, responsibilities, obligations, and the collection of fees. Such drug courts shall adhere to all Office of Probation Administration policies and procedures in regard to the Offender Fee for Service Voucher Program.
 - E. Drug courts shall not deny participation to anyone based on a person's financial status, gender, age, race, religion, physical or mental disability, or ethnicity.
 - F. Participants must sign an appropriate consent for disclosure upon application for entry into a drug court in accordance with confidentiality requirements of 42 U.S.C. 290dd-2 and 42 C.F.R. part 2.
 - G. Drug courts shall have a core team of professionals responsible for the case management of participants.
 - H. Drug courts shall advise the Administrative Office of the Courts, in writing, of the source(s) of all program funding. Drug courts eligible for available federal funding or other grant-based funding are encouraged to make all reasonable efforts to secure such funding.

I. Drug courts in which the collection of state or local fees applies shall not deny entrance nor terminate from the program based on an individual's inability to pay.

J. All drug court participants shall remit all state or local fee payments to the clerk of the court. The clerk of the court shall collect all required state and local fees and shall disperse and report such fees according to law and the policies of the Administrative Office of the Courts.

K. The Court shall reserve the right to allow exemptions to any of the requirements set forth in paragraphs 6A through 6J. Any request for an exemption shall be made to the Court in writing. Exemptions shall also be terminated at the discretion of the Court.

7. Case Management and Evaluation Requirements.

A. Drug courts shall collect and record the data necessary to permit the Administrative Office of the Courts to facilitate outcome and process evaluations. At a minimum, the data to be collected and recorded shall include:

1. Information regarding participant census, including numbers of:

- a. active participants
- b. total participants served since program's inception
- c. graduates
- d. participants terminated

2. Participant demographics including, but not limited to:

- a. age
- b. race
- c. ethnicity
- d. gender

3. Participant program compliance, including, but not limited to:

- a. attendance in treatment
- b. drug testing
- c. phase movement
- d. attendance in other services

B. Drug courts shall utilize the statewide case management system as approved by the Administrative Office of the Courts to record its data when such statewide case management system becomes available. Until then, such courts shall, in a timely manner, provide data to the Administrative Office of the Courts as requested.

C. Drug courts shall participate fully in any process or outcome evaluation facilitated by the Administrative Office of the Courts.

D. Unauthorized disclosure of confidential information regarding participants is prohibited.

E. The Court shall reserve the right to allow exemptions to any of the requirements set forth in paragraphs 7A through 7D. Any request for an exemption shall be made to the Court in writing. Exemptions shall also be terminated at the discretion of the Court.